

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

HERBERT LAVONNE WIGGINS,
TDCJ No. 1370636,

Petitioner,

V.

DIRECTOR, TDCJ-CID,

Respondent.

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No. 3:23-CV-2598-D

ORDER

The United States Magistrate Judge made findings, conclusions, and a recommendation (as supplemented) in this case. Petitioner filed objections on February 8, 2024 (styled as a Rule 59(e) motion) and a Rule 59(e) and Rule 60(b) motion on March 5, 2024. The undersigned district judge reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation (as supplemented) to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding no error, the court adopts the findings, conclusions, and recommendation (as supplemented) of the United States Magistrate Judge.

The court denies petitioner's motions filed on February 8, 2024 and March 5, 2024.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings,

and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation (as supplemented) filed in this case in support of its finding that petitioner has failed to show that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" or "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

But if petitioner files a notice of appeal, he must either pay the applicable appellate filing fee or move for leave to appeal *in forma pauperis*.

SO ORDERED.

March 26, 2024.



SIDNEY A. FITZWATER
SENIOR JUDGE